

### **IC 3-12-6**

#### **Chapter 6. Recount Procedures for Nomination for and Election to Local and School Board Offices**

### **IC 3-12-6-1**

#### **Right of recount; local or school board offices**

Sec. 1. (a) Any candidate for nomination or election to a local or school board office is entitled to have the votes cast for that office recounted under this chapter.

(b) If a candidate who is entitled to have the votes recounted under this chapter does not file a petition within the period established by section 2 of this chapter, the county chairman of a political party in the precinct in which the recount is desired may file a petition to have the votes recounted. A county chairman is entitled to have the votes recounted only in a partisan race.

(c) The right of recount may be exercised for one (1) or more of the precincts in which votes were cast for the office.

*As added by P.L.5-1986, SEC.8. Amended by P.L.7-1986, SEC.5; P.L.10-1988, SEC.133; P.L.4-1996, SEC.73.*

### **IC 3-12-6-1.2**

#### **Chapter establishes standards to define vote**

Sec. 1.2. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.

*As added by P.L.209-2003, SEC.188.*

### **IC 3-12-6-1.5**

#### **Chapter applicable to elections for political party offices**

Sec. 1.5. A candidate for election to precinct committeeman or state convention delegate is entitled to have the votes cast for that office recounted under this chapter. The political party of the candidate, in accordance with any applicable party rules, determines the winner of an election to a political party office.

*As added by P.L.3-1997, SEC.356. Amended by P.L.40-2001, SEC.1.*

### **IC 3-12-6-2**

#### **Petition for recount; filing**

Sec. 2. (a) A candidate who desires a recount of votes must file a verified petition no later than noon seven (7) days after election day.

(b) A county chairman who is entitled to and desires a recount of votes must file a verified petition not later than noon ten (10) days after election day.

(c) The petition must be filed in the circuit or superior court of each county in which is located a precinct in which the individual desires a recount.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.370; P.L.10-1988, SEC.134; P.L.4-1996, SEC.74.*

### **IC 3-12-6-2.5**

#### **Petition for recount; filing fee; cause number**

Sec. 2.5. Upon the filing of a petition under section 2 of this chapter, the circuit court clerk shall:

- (1) require payment of the filing fee under IC 33-37; and
- (2) assign the petition a cause number as a miscellaneous civil action.

*As added by P.L.3-1997, SEC.357. Amended by P.L.98-2004, SEC.39.*

### **IC 3-12-6-3**

#### **Petition for recount; content**

Sec. 3. Each petition filed under section 2 of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts within the county in which the petitioner desires a recount.
- (3) That the petitioner is entitled to a recount under section 1 of this chapter.
- (4) That the nomination or office was voted upon in the precincts specified.
- (5) The name of each candidate for the nomination or office as set forth on the ballot for the election and the address of each candidate for nomination or election to the office as set forth in the records of the county election board or election division.
- (6) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (7) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.135; P.L.4-1996, SEC.75; P.L.176-1999, SEC.95.*

### **IC 3-12-6-4**

#### **Cross-petition for recount; filing**

Sec. 4. A candidate who is nominated or elected to an office at an election on the face of the election returns may file a verified cross-petition for a recount no later than noon fourteen (14) days after election day. If a petition for a recount is filed for an office for which voters in more than one (1) county vote, a cross-petition for a recount may be filed in a county other than the one in which the first petition was filed.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.371; P.L.10-1988, SEC.136; P.L.4-1996, SEC.76.*

### **IC 3-12-6-5**

#### **Failure to file cross-petition or answer to petition for recount**

Sec. 5. The failure to file either a cross-petition or an answer to a petition for a recount does not:

- (1) constitute an admission of the truth of the allegations of the petition; or
- (2) imply a presumption in favor of the petition.

*As added by P.L.5-1986, SEC.8.*

### **IC 3-12-6-6**

#### **Cross-petition for recount; contents**

Sec. 6. Each cross-petition filed under section 4 of this chapter must state the following:

- (1) The office for which the cross-petitioner desires a recount.
- (2) The precincts within the county in which the cross-petitioner desires a recount.
- (3) That the cross-petitioner was a candidate at the election for nomination or election to the office and that the nomination or office was voted upon in the precincts specified.
- (4) The name and address of the cross-petitioner's opposing candidate or candidates.
- (5) That the cross-petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the cross-petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.137.*

### **IC 3-12-6-7**

#### **Amendment of petition or cross-petition**

Sec. 7. (a) Except as provided in subsection (b), the court in which a petition or cross-petition is filed may allow the petition or cross-petition to be amended at any time upon the terms and conditions that the court orders.

(b) The court may not allow a petition or cross-petition to be amended following the deadline for filing a petition or cross-petition under this chapter if the petition or cross-petition as originally filed:

- (1) failed to comply with this chapter; or
- (2) was not filed before the deadline specified in this chapter.

*As added by P.L.5-1986, SEC.8. Amended by P.L.176-1999, SEC.96.*

### **IC 3-12-6-8**

#### **Petition for recount; joinder; consolidation; exception; transfer**

Sec. 8. (a) Two (2) or more candidates for nomination or election to the same or a different office at the same election may join in a petition for a recount.

(b) Except as provided in subsection (d), if more than one (1) petition for a recount is filed in a county no later than noon seven (7) days after election day, whether in the same court of the county or not, the petitions shall be consolidated under the first petition filed. If a transfer of petitions from one (1) court of the county to another court of the county is necessary to effect the consolidation, then the court in which the subsequent petitions were filed shall order the

transfer.

(c) If more than one (1) petition for a recount is filed for an office in more than one (1) county, the circuit court for the county casting, on the face of the election returns, the highest number of votes for the office shall assume jurisdiction over all petitions and cross-petitions concerning the office. If a transfer of petitions or cross-petitions from one (1) court to another is necessary to effect the consolidation in the circuit court, then any other court in which a petition or cross-petition was filed shall order the transfer.

(d) A petition for a recount filed for an election in different municipalities, whether in the same court of the county or not, may not be consolidated.

*As added by P.L. 5-1986, SEC. 8. Amended by P.L. 7-1986, SEC. 6; P.L. 3-1987, SEC. 372; P.L. 10-1988, SEC. 138; P.L. 8-1992, SEC. 31.*

### **IC 3-12-6-9**

#### **Notice of filing of petition for recount and pendency of petition of each candidate named in petition; service of notice; return of service**

Sec. 9. (a) Upon the filing of a petition for a recount, the circuit court clerk shall notify the judge. The judge shall:

- (1) issue a notice of the filing and pendency of the petition to:
  - (A) each candidate named in the petition;
  - (B) the county election board; and
  - (C) the election division if the petition relates to a recount for the office of judge or prosecuting attorney; and
- (2) deliver the notice to the sheriff of each county in which a candidate resides.

(b) Each sheriff shall immediately serve the notice upon candidates in person or by leaving a copy at the last and usual place of residence. The sheriff shall make immediate return of the service.

*As added by P.L. 5-1986, SEC. 8. Amended by P.L. 10-1988, SEC. 139; P.L. 4-1996, SEC. 77; P.L. 66-2003, SEC. 45.*

### **IC 3-12-6-9.5**

#### **Disqualification of judge where recount involves court assuming jurisdiction**

Sec. 9.5. If a recount involves the nomination or election of the judge of the court that assumes jurisdiction over the recount and the regular judge of the court is a party to the proceeding, then the regular judge is disqualified to act in any way in the proceeding except to transfer a petition or cross-petition under section 8 of this chapter. The judge shall, within three (3) days after the court assumes jurisdiction, certify the fact of disqualification to the governor, who shall then appoint a special judge for the proceeding.

*As added by P.L. 10-1988, SEC. 140.*

### **IC 3-12-6-10**

#### **Petitioner's cash deposit or bond; filing; amounts; cost of recount; unexpended balance**

Sec. 10. (a) Each petitioner shall furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100).

(b) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) of the total votes cast for all candidates for the nomination or office. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If a petition is joint, a joint bond may be furnished.

(e) The costs of a recount may include the following:

- (1) Compensation of recount commissioners.
- (2) Compensation of additional employees required to conduct the recount, including overtime payments to regular employees who are eligible to receive such payments.
- (3) Postage and telephone charges directly related to the recount.

(f) The costs of a recount may not include the following:

- (1) General administrative costs.
- (2) Security.
- (3) Allowances for meals or lodging.

(g) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance. If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(h) Any unexpended balance remaining in a deposit after payment of all costs of the recount and the refund, if a refund is made, shall be deposited in the county general fund.

*As added by P.L.5-1986, SEC.8. Amended by P.L.8-1992, SEC.32; P.L.8-1995, SEC.54; P.L.14-2004, SEC.160.*

### **IC 3-12-6-10.5**

#### **Petitioner's cash deposit; deposit in county general fund**

Sec. 10.5. When a cash deposit is furnished under section 10 of this chapter, the circuit court clerk shall deposit the cash in the county general fund.

*As added by P.L.3-1997, SEC.358.*

### **IC 3-12-6-11**

#### **Cross-petitioner's cash deposit or bond; cost of recount**

Sec. 11. If a cross-petition is filed, each petitioner and cross-petitioner shall either furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of each party's proportionate share of the cost of the recount. If a cross-petition is joint, a joint bond may be furnished.

*As added by P.L.5-1986, SEC.8.*

### **IC 3-12-6-12**

#### **Cost of recount when cash deposit not made**

Sec. 12. (a) This section does not apply to a petitioner or a cross-petitioner who is determined to have been nominated or elected after the recount.

(b) If a cash deposit was not made as required by section 10 or 11 of this chapter, the petitioners shall pay to the circuit court clerk within ten (10) days after the recount is completed all of the costs of the recount. However, if a cross-petition was filed, then each cross-petitioner shall pay to the circuit court clerk within ten (10) days after the recount is completed all of the costs of the recount in the precincts designated in the cross-petition. A petitioner is not liable for the costs of a recount allocated to a cross-petitioner.

*As added by P.L.5-1986, SEC.8. Amended by P.L.8-1995, SEC.55.*

### **IC 3-12-6-13 Repealed**

*(Repealed by P.L.7-1986, SEC.20.)*

### **IC 3-12-6-13.5**

#### **Repealed**

*(Repealed by P.L.10-1988, SEC.238.)*

### **IC 3-12-6-14**

#### **Order of recount and appointment of recount commission; conditions**

Sec. 14. The court shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts by appointing a recount commission upon:

- (1) the filing of a petition and bond under this chapter;
- (2) the expiration of the period under section 4 of this chapter for filing a cross-petition; and
- (3) proof of service of all notices.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.374.*

### **IC 3-12-6-15**

#### **Consolidated recount of votes**

Sec. 15. If there is a consolidation of petitions and cross-petitions, the court shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in all precincts in the counties requested in the petitions and cross-petitions.

*As added by P.L.5-1986, SEC.8. Amended by P.L.7-1986, SEC.7.*

### **IC 3-12-6-16**

#### **Recount commission; membership**

Sec. 16. (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state; and

(2) were qualified to vote at the election in a county in which the election district for the office is located.

(c) This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used. The third member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the election district for the office is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. The third member of the commission must be a competent mechanic who is familiar with the voting machines, ballot card voting systems, or electronic voting systems used in that election. The mechanic is not required to be qualified to vote at the election in a county in which the election district for the office is located.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.375.*

### **IC 3-12-6-17**

#### **Recount commission; compensation**

Sec. 17. Each member of a recount commission is entitled to a per diem not to exceed one hundred dollars (\$100) for each day actually engaged in making the recount. The judge of the court having jurisdiction over the recount shall fix the compensation paid under this section.

*As added by P.L.5-1986, SEC.8. Amended by P.L.4-1991, SEC.116.*

### **IC 3-12-6-17.5**

#### **Recount commission and other recount costs; payment from county general fund**

Sec. 17.5. (a) If the amount of the cash deposit or bond available under section 10 of this chapter is not adequate to pay the compensation of the recount commission under section 17 of this chapter, a member of the recount commission is entitled to compensation from the county general fund without appropriation, and upon submission of a claim for compensation to the county executive.

(b) Any other cost of the recount that remains unpaid following the determination of the recount commission and which cannot be recovered from the cash deposit or bond shall be paid from the county general fund without appropriation.

*As added by P.L.3-1997, SEC.359.*

**IC 3-12-6-18****Certified copy of order to candidates; cost of mailing**

Sec. 18. On the day when the order of a recount is made and entered by the court, the circuit court clerk shall send a certified copy of the order by certified mail to each candidate named in the petition at the address stated in the petition. The clerk shall charge the cost of mailing the order to the petitioner.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.376; P.L.4-1996, SEC.78.*

**IC 3-12-6-19****Impoundment of election materials by court; recount commission orders; copying election materials**

Sec. 19. (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

- (1) All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts.
- (2) All tally sheets relating to the votes cast for nomination or election to the office.
- (3) All poll lists of persons registered by the poll clerks as having voted for nomination or election to the office.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.377; P.L.10-1988, SEC.141.*

**IC 3-12-6-19.5****Impounded materials; use of copies instead of originals**

Sec. 19.5. A circuit court clerk or board of registration may use a copy made under section 19 of this chapter instead of an original subject to an impoundment order under that section until the court orders the release of the original.

*As added by P.L.3-1987, SEC.378.*

**IC 3-12-6-20****Court making impounded materials available to recount commission**

Sec. 20. A court acting under section 19 of this chapter shall make the ballots, voting machines, electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.379.*



**IC 3-12-6-21****Recount; place; expeditious completion; watchers; representatives; news media; powers and duties of state recount commission**

Sec. 21. (a) After a recount is ordered under section 14 of this chapter, the recount commission shall convene at a place fixed by order of the court.

(b) Whenever a motion to dismiss a petition or cross-petition for a recount is filed with the court, the court shall rule on the motion to dismiss before the recount commission conducts the recount. The motion to dismiss must:

- (1) state that the petitioner or cross-petitioner has failed to comply with this chapter; and
- (2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with.

(c) As the first item of business, the recount commission shall adopt procedures for conducting the recount, based as closely as is practical on the procedures adopted by the state recount commission. After adopting these procedures, the recount commission shall expeditiously complete the recount of all votes ordered recounted.

(d) The proceedings of the recount commission shall be performed in public under IC 5-14-1.5 (the Open Door Law). However, the commission may restrict access to parts of a room where the recount is being conducted to safeguard the election material or to permit the material to be handled or transported by the commission. Each candidate affected by the recount may have a watcher present at the recount and may also be present in person. A watcher for a candidate under this subsection has the same rights as a watcher appointed under IC 3-6-8-4. Representatives of the media may also attend the recount and have the same rights as media watchers appointed under IC 3-6-10.

(e) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by the recount commission appointed under this chapter to the extent that the orders conflict. The state recount commission shall assist a recount commission appointed under this chapter to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(f) During the period:

- (1) beginning when a recount is ordered under section 14 of this chapter; and
- (2) ending when the recount commission certifies the recount results under section 22 of this chapter;

the recount commission may petition the court that acquired jurisdiction over the recount under section 8 of this chapter to rule on questions raised by the recount commission.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.380; P.L.3-1993, SEC.213; P.L.3-1997, SEC.360; P.L.176-1999, SEC.97.*

**IC 3-12-6-21.5****Ballot card voting systems; petition for manual count and**

**tabulation of votes**

Sec. 21.5. (a) A petition or cross-petition filed under this chapter may request that ballot cards in specified precincts that used a ballot card voting system be counted manually. If a petition or cross-petition includes such a request, the recount commission may not use automatic tabulating machines to count ballot cards in the specified precincts. Ballot cards in those precincts shall be counted manually, and the tabulation of votes must comply with IC 3-11-7.

(b) A petitioner or cross-petitioner may withdraw a request for a manual recount of ballot cards at any time after the recount commission conducts a test of the automatic tabulating machines to ascertain that the machines will correctly count the votes cast for the office that is the subject of the recount.

*As added by P.L.3-1987, SEC.381. Amended by P.L.10-1988, SEC.142.*

**IC 3-12-6-21.7****Duties of recount commission**

Sec. 21.7. (a) Unless the recount commission makes a finding under subsection (b), the recount commission shall:

- (1) count ballots in accordance with this article; and
- (2) not order that all ballots in a precinct not be counted.

(b) If:

- (1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting the integrity of the ballot within a precinct; and
  - (2) the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission to determine the approximate number of votes that each candidate received in that precinct;
- the commission may order that none of the ballots from that precinct be counted.

*As added by P.L.3-1995, SEC.128.*

**IC 3-12-6-21.9****Recount; date of completion**

Sec. 21.9. (a) A recount for nomination to an office conducted under this chapter shall be completed not later than the final Friday in June following the primary.

(b) A recount for election to an office conducted under this chapter shall be completed not later than December 20 following the election.

*As added by P.L.3-1997, SEC.361. Amended by P.L.176-1999, SEC.98.*

**IC 3-12-6-22****Recount; completion; certificate**

Sec. 22. (a) When a recount is completed by a commission appointed under this chapter, the commission shall:

- (1) make and sign a certificate showing the total number of

votes received in the precincts by each candidate for nomination or election to the office;

(2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and

(3) file its certificate with the circuit court clerk.

(b) The circuit court clerk shall:

(1) enter the certificate in the order book of the court;

(2) file a copy of the certificate in the minutes of the county election board; and

(3) if the recount concerned an office for which a declaration of candidacy must be filed with the election division under IC 3-8-2, file a copy of the certificate with the election division not later than seven (7) days after the date the recount commission filed the certificate with the clerk of the circuit court.

(c) If a certificate is filed with the election division under subsection (b), the election division shall provide a copy of the certificate to the office.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.143; P.L.38-1999, SEC.60; P.L.212-2001, SEC.27.*

#### **IC 3-12-6-22.5**

##### **Court issuance of order on commission certificate; finality of recount decision; appeal**

Sec. 22.5. (a) After the commission files its certificate under section 22 of this chapter, the court that appointed the commission shall issue an order that does the following:

(1) Acknowledges the filing of the certificate.

(2) Discharges the commission.

(3) Releases election materials impounded during the recount.

(b) The determination of a commission under section 22 of this chapter is final, although an appeal may be taken to the court that appointed the commission.

(c) An appeal under subsection (b):

(1) must be filed not later than thirty (30) days after the court issues the order under subsection (a); and

(2) is limited to:

(A) questions of law arising out of the recount; and

(B) procedural defects by the recount commission that affected the outcome of the recount.

*As added by P.L.10-1988, SEC.144. Amended by P.L.3-1989, SEC.13; P.L.3-1993, SEC.214; P.L.66-2003, SEC.46.*

#### **IC 3-12-6-23**

##### **Recount certificate; effect; prima facie evidence of votes cast**

Sec. 23. A recount certificate made under section 22 of this chapter supersedes all previous returns made in any form of the recounted votes. A certified copy of a recount certificate constitutes prima facie evidence of the votes cast for nomination or election to

the office in the precincts in any contest or other proceeding in which there is an issue as to the votes cast at the election for nomination or election to the office.

*As added by P.L.5-1986, SEC.8. Amended by P.L.7-1986, SEC.8; P.L.10-1988, SEC.145.*

#### **IC 3-12-6-24**

##### **Repealed**

*(Repealed by P.L.7-1986, SEC.20.)*

#### **IC 3-12-6-25**

##### **Repealed**

*(Repealed by P.L.7-1986, SEC.20.)*

#### **IC 3-12-6-26**

##### **Repealed**

*(Repealed by P.L.7-1986, SEC.20.)*

#### **IC 3-12-6-27**

##### **Votes cast in more than one county; difference between recount certificate and county election board tabulation; correction of certificate**

Sec. 27. If a recount is made under this chapter for nomination or election to an office for which votes were cast in more than one (1) county, each circuit court clerk where the recount was made shall determine whether the votes in the precincts shown by the recount certificate differ from the votes that were tabulated by the county election board. If a circuit court clerk finds that there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board, the clerk shall prepare a certificate showing the total vote in the county for each candidate for nomination or election to the office as corrected in accordance with the recount certificate.

*As added by P.L.5-1986, SEC.8. Amended by P.L.7-1986, SEC.9; P.L.10-1988, SEC.146; P.L.3-1993, SEC.215.*

#### **IC 3-12-6-28**

##### **Transmittal of certificate showing votes cast**

Sec. 28. (a) A circuit court clerk shall immediately transmit a certificate prepared under section 27 of this chapter showing the votes cast for nomination or election to an office to the election division if the recount concerned an office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(b) The election division shall provide a copy of a certificate transmitted to the election division under this section to the office.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.147; P.L.3-1997, SEC.362; P.L.38-1999, SEC.61; P.L.212-2001, SEC.28.*

#### **IC 3-12-6-29**

##### **Tabulation of vote in accordance with certificate**

Sec. 29. Upon receipt of a circuit court clerk's certificate under section 28 of this chapter, the election division shall tabulate the vote from the county for the office in accordance with the certificate. If the election division previously included in a tabulation the votes cast for the office as returned by the county election board, the election division shall correct the tabulation in accordance with the certificate.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.216; P.L.3-1997, SEC.363.*

#### **IC 3-12-6-30**

##### **Single county nominations or elections; differences between votes shown by recount certificate and votes tabulated by county board; certificate of corrected vote total**

Sec. 30. If a recount is made under this chapter for nomination or election to an office for which votes were cast only in a single county, the circuit court clerk shall determine whether the votes shown by the recount certificate differ from the votes that were tabulated by the county election board. If the circuit court clerk finds that there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board, the clerk shall prepare a certificate showing the total vote for each candidate for nomination or election to the office as corrected in accordance with the recount certificate.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.148; P.L.3-1993, SEC.217.*

#### **IC 3-12-6-31**

##### **Single county nominations or elections; transmittal of certificate showing corrected vote total**

Sec. 31. (a) The circuit court clerk shall transmit the certificate prepared under section 30 of this chapter to the election division, the county election board or other public official authorized by this title to issue:

- (1) a certificate of nomination under IC 3-8-7;
- (2) a certificate of election under IC 3-10-7-34 or IC 3-12-5-2;
- or
- (3) a commission for the office under IC 4-3-1-5.

(b) The election division shall provide a copy of a certificate transmitted to the election division under this section to the office.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.149; P.L.3-1997, SEC.364; P.L.212-2001, SEC.29.*

#### **IC 3-12-6-32**

##### **Certificate of nomination, election, or commission for office**

Sec. 32. The candidate shown by a corrected vote tabulation under section 29 or 30 of this chapter to have received the highest number of votes for nomination or election to an office is entitled to a certificate of nomination under IC 3-8-7 or a certificate of election or commission for the office, even though one may have been issued

upon a previous tabulation.

*As added by P.L.5-1986, SEC.8. Amended by P.L.10-1988, SEC.150.*

### **IC 3-12-6-33**

#### **Vacation of office by person in possession**

Sec. 33. On the demand of a person receiving a commission or certificate of election issued upon the filing of the certificate of a recount commission, a person in possession of the office in question shall vacate and deliver the office. If the person in possession refuses to do so, the court may compel the vacation of the office upon the petition of the person holding the commission or certificate.

*As added by P.L.10-1988, SEC.151.*